

(PJWx), CLOSED, DISCOVERY, TRANSFERRED

**U.S. District Court**  
**CENTRAL DISTRICT OF CALIFORNIA (Western Division - Los Angeles)**  
**CIVIL DOCKET FOR CASE #: 2:05-cv-03705-FMC-PJW**  
**Internal Use Only**

**J T Posey Company V. Hipsaver Company Inc**  
**Assigned to: Honorable Florence-Marie Cooper**  
**Referred to: Magistrate Judge Patrick J. Walsh**  
**Cause: 28:2201 Declaratory Judgement**

**Date Filed: 05/18/2005**  
**Jury Demand: Defendant**  
**Nature of Suit: 890 Other Statutory**  
**Actions**  
**Jurisdiction: Federal Question**

**Plaintiff**

**J T Posey Company**  
**a California Corporation**

represented by **Douglas H Morseburg**  
**Sheldon & Mak**  
**225 S Lake Ave, 9th Fl**  
**Pasadena, CA 91101**  
**626-796-4000**  
**Email: doug@usip.com**  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

I hereby attest and certify on 7/21/05  
that the foregoing document is a full, true  
and correct copy of the original on file in  
my office, and in my legal custody.

CLERK, U.S. DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

By [Signature] Deputy



00127

**Jeffrey G Sheldon**  
**Sheldon & Mak**  
**225 S Lake Ave, 9th Fl**  
**Pasadena, CA 91101**  
**626-796-4000**  
**Email: jgsheldon@usip.com**  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Shannon S Sheldon**  
**Sheldon and Mak**  
**225 South Lake Ave, 9th Floor**  
**Pasadena, CA 91101**  
**626-796-4000**  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**V.**

**Defendant**

**Hipsaver Company Inc**  
**a Massachusetts corporation**

represented by **Aaron V O'Donnell**  
**Atkinson Andelson Loya Ruud And**  
**Romo**  
**17871 Park Plaza Drive**  
**Suite 200**  
**Cerritos, CA 90703-8597**  
**562-653-3200**  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Edward J Dalley**  
**Brombert Sunstein**  
**125 Summer Street, 11th Floor**  
**Boston, MA 02110-1618**  
**617-443-9292**  
**Email: edalley@bromson.com**

**LEAD ATTORNEY  
ATTORNEY TO BE NOTICED**

**Edward Cosmo Ho**  
**Atkinson Andelson Loya Ruud & Romo**  
**17871 Park Plaza Dr, Ste 200**  
**Cerritos, CA 90703-8597**  
**562-653-3200**  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Mark T Palin**  
**Atkinson Andelson Loya Ruud & Romo**  
**17871 Park Drive Suite 200**  
**Cerritos, CA 90703-8597**  
**562-653-3200**  
**Fax: 562-653-3333**  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Peter J Karel**  
**Brombert Sunstein**  
**125 Summer Street, 11th Floor**  
**Boston, MA 02110-1618**  
**617-443-9292**  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Scott K Dauscher**  
**Atkinson Andelson Loya Ruud & Romo**  
**17871 Park Plaza Dr, Ste 200**  
**Cerritos, CA 90703-8597**  
**562-653-3200**  
**Email: skd@aarlrr.com**  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Counter Claimant**

**Hipsaver Company Inc**  
**a Massachusetts corporation**

represented by **Aaron V O'Donnell**  
**(See above for address)**  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Edward J Dalley**  
**(See above for address)**  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Edward Cosmo Ho**  
**(See above for address)**  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Mark T Palin**  
**(See above for address)**  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Peter J Karel**  
**(See above for address)**  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Scott K Dauscher**  
**(See above for address)**  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**V.**

**Counter Defendant**

**J T Posey Company**  
**a California Corporation**

| Date Filed | # | Docket Text  |
|------------|---|--|
| 05/18/2005 |   | ***Party Hipsaver Company Inc added. (twdb, ) (Entered: 05/23/2005)  |
| 05/18/2005 | 1 | COMPLAINT for declaratory judgment against defendant Hipsaver Company Inc.(Filing fee \$ 250 paid), filed by plaintiff J T Posey Company.(twdb, ) (Entered: 05/23/2005)  |
| 05/18/2005 |   | Summons Issued re Complaint - (Discovery)[1] as to Hipsaver Company Inc. (twdb, ) (Entered: 05/23/2005)  |
| 05/18/2005 | 2 | CERTIFICATION of Interested Parties filed by Plaintiff J T Posey Company. (twdb, ) (Entered: 05/23/2005)   |
| 05/25/2005 | 3 | PROOF OF SERVICE Executed by Plaintiff J T Posey Company, upon Hipsaver Company Inc served on 5/19/2005, answer due 6/8/2005. The Summons and Complaint were served by Personal service, by NOT CITED statute, upon Edward L. Goodwin, Hipsaver Co Inc., Thubbard Street, Canton, MA. Due Dilligence declaration not attached. Original Summons returned. (jp, ) (Entered: 05/26/2005) |
| 06/06/2005 | 4 | APPLICATION AND ORDER of Non-Resident Attorney to Appear in a Specific Case by Peter J Karol for Hipsaver Company Inc, designating Edward C Ho as local counsel. Fee PAID. Approved by Judge Florence-Marie Cooper.(jp, ) (Entered: 06/07/2005)  |
| 06/06/2005 | 5 | APPLICATION AND ORDER of Non-Resident Attorney to Appear in a Specific Case by Edward J Dailey for Hipsaver Company Inc designating Mark T Palin as local counsel. Fee PAID. Approved by Judge Florence-Marie Cooper.(jp, ) (Entered: 06/07/2005)  |
| 06/06/2005 |   | FAX number for Attorneys Edward J Dailey, Peter J Karol is 617-443-0004. (jp, ) (Entered: 06/07/2005)  |
| 06/07/2005 | 6 | ANSWER to Complaint - (Discovery)[1], COUNTERCLAIM against J T Posey Company, with JURY DEMAND, filed by defendant Hipsaver Company Inc. (jp, ) (Entered: 06/08/2005)  |
| 06/07/2005 | 7 | NOTICE of Interested Parties filed by Defendant, Counter Claimant Hipsaver Company Inc. (jp, ) (Entered: 06/08/2005)   |
| 06/07/2005 | 8 | NOTICE OF MOTION AND MOTION to Dismiss, Stay or to Transfer this action to District of Massachusetts; Certificate of Meet and Confer; and Memorandum of Points and Authorities filed by defendant Hipsaver Company Inc. Motion set for hearing on 7/11/2005 at 10:00 AM before Honorable Florence-Marie Cooper. (jp, ) (Entered: 06/09/2005)   |
| 06/07/2005 | 9 | DECLARATION of EDWARD J. DAILEY in support of MOTION to Dismiss, Stay or to Transfer this action [8] filed by defendant Hipsaver Company Inc. (jp, ) (Entered: 06/09/2005)   |

|            |    |  |
|------------|----|--|
| 06/07/2005 | 10 | DECLARATION of EDWARD GOODWIN in support of MOTION to Dismiss, Stay or to Transfer this action [8] filed by defendant Hipsaver Company Inc. (jp, ) (Entered: 06/09/2005)   |
| 06/07/2005 | 11 | NOTICE of Related Case(s) filed by Defendant Hipsaver Company Inc. Related Case(s): 05-10917 PBS filed in the US District Court for the State of Massachusetts (rn, ) (Entered: 06/15/2005)  |
| 06/15/2005 | 12 | EX PARTE APPLICATION to Strike MOTION to Dismiss, Stay or to Transfer this action to District of Massachusetts [8] filed by plaintiff/counter defendant J T Posey Company. Lodged proposed order. (jag, ) (Entered: 06/22/2005)  |
| 06/15/2005 | 13 | DECLARATION of DOUGLAS H MORSEBURG in support of EX PARTE APPLICATION to Strike MOTION to Dismiss, Stay or to Transfer this action to District of Massachusetts [8][12] filed by plaintiff/counter-defendant J T Posey Company. (jag, ) (Entered: 06/22/2005)  |
| 06/17/2005 | 15 | OPPOSITION to EX PARTE APPLICATION to Strike MOTION to Dismiss, Stay or to Transfer this action to District of Massachusetts [8][12] filed by defendant/counterclaimant Hipsaver Company Inc. (jag, ) (Entered: 06/27/2005)  |
| 06/17/2005 | 16 | DECLARATION of EDWARD J DAILEY in support of opposition to EX PARTE APPLICATION to Strike MOTION to Dismiss, Stay or to Transfer this action to District of Massachusetts [8][12] filed by defendant/counterclaimant Hipsaver Company Inc, Hipsaver Company Inc. (jag, ) (Entered: 06/27/2005)   |
| 06/20/2005 | 14 | MINUTES by Judge Florence-Marie Cooper; Court has read and considered plaintiffs EX PARTE APPLICATION to Strike to Dismiss, Stay or to Transfer this action to District of Massachusetts [8][12] and defendants opposition thereto. No good cause having been shown, the ex parte application is DENIED.Court Reporter: n/a. (jag, ) (Entered: 06/22/2005) |
| 06/20/2005 |    | ORDER denying [12] Ex Parte Application to Strike (jag, ) (Entered: 06/22/2005)  |
| 06/20/2005 |    | PLACED IN FILE - NOT USED re (proposed) order striking motion for dismissal submitted by plaintiff/counter-defendant J T Posey Company. (jag, ) (Entered: 06/22/2005)  |
| 06/20/2005 | 17 | NOTICE OF ERRATA filed by Defendant Hipsaver Company Inc. correcting Declaration of Edward J. Dailey in support of its opposition to plaintiffs ex parte application for an order striking Hipsaver's Motin for Dismissal, Stay, or Transfer[16]. (ca, ) (Entered: 06/29/2005)   |
| 06/27/2005 | 19 | MEMORANDUM of points and authorities in partial Opposition to MOTION to Dismiss Case MOTION to Stay Case MOTION to Stay Case MOTION to Transfer Case to District of Massachusetts MOTION to Transfer Case to District of Massachusetts[8] filed by plaintiff, J T Posey Company. (sv) (Entered: 07/07/2005)  |
| 06/27/2005 | 20 | DECLARATION of Jeffrey G Sheldon in partial opposition to MOTION to Dismiss Case MOTION to Stay Case MOTION to Stay Case MOTION to Transfer Case to District of Massachusetts MOTION to Transfer Case to District of Massachusetts[8] filed by plaintiff, J T Posey Company. (sv) (Entered: 07/07/2005)  |
| 06/27/2005 | 21 | DECLARATION of Douglas H Morseburg in partial opposition to MOTION to Dismiss Case MOTION to Stay Case MOTION to Stay Case MOTION to Transfer Case to District of Massachusetts MOTION to Transfer Case to District of Massachusetts[8] filed by plaintiff J T Posey Company. (sv)   |



|            |    |   |
|------------|----|---|
|            |    | (Entered: 07/07/2005)   |
| 06/27/2005 | 22 | <b>PROOF OF SERVICE</b> filed by plaintiff, J T Posey Company. re Declaration (Motion related), Declaration (Motion related)[20], Declaration (Motion related), Declaration (Motion related)[21], MEMORANDUM in Opposition to Motion, [19], was served on 6/27/05. (sv) (Entered: 07/07/2005)   |
| 06/30/2005 | 18 | <b>MINUTES</b> by Judge Florence-Marie Cooper; Defendant Hipsaver Companys <b>MOTION to Dismiss, Stay or to Transfer</b> this action to District of Massachusetts [8] is <b>STAYED</b> pending the outcome of the 7/12/05 hearing on plaintiffs J T Poseys motions filed in the Massachusetts District Court. Consistent with the spirit of the first-to-file rule, the Court will wait for the decision of the Massachusetts Court where the first action was filed. Court stays this matter until the Massachusetts Court reaches a decision of plaintiffs motions.Court Reporter: n/a. (jag, ) (Entered: 07/01/2005) |
| 06/30/2005 |    | <b>ORDER</b> taking under advisement [8] Motion to Dismiss Case, taking under advisement [8] Motion to Stay Case, taking under advisement [8] Motion to Transfer Case (jag, ) (Entered: 07/01/2005)   |
| 07/01/2005 |    | <b>PLACED IN FILE - NOT USED</b> re stipulation to continue (1) hearing on motion to dismiss, stay or transfer; and (2) time to reply to counterclaim pending ruling in related case on motion to transfer submitted by plaintiff, J T Posey Company. (sv) (Entered: 07/13/2005)  |
| 07/18/2005 | 23 | <b>STIPULATION and ORDER</b> by Judge Florence-Marie Cooper that this matter shall be transferred to the District of Massachusetts which is the district in which the related case CV05-10917 PBS is pending. Original file, certified copy of the transfer order and docket sheet sent. (MD JS-6. Case Terminated.)(jag, ) (Entered: 07/21/2005)   |
| 07/18/2005 |    | <b>***Set/Clear Flags</b> (jag, ) (Entered: 07/21/2005)   |